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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
JASON JAYAVARMAN,)
)
Defendant.)
_____)

Case No. 3:13-cr-00097-SLG-JDR

MOTION TO CONTINUE TRIAL AND EXTEND MOTIONS DEADLINES

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Comes Now, Jason Jayavarman, by and through his attorney, Rex Lamont Butler & Associates, Inc., and respectfully moves and petitions this Honorable Court to continue the trial date and to extend the deadlines for pretrial motions. This motion is based on the following considerations:

Trial is presently set for December 1, 2014.

Pretrial motions, except with respect to motions concerning the Cambodian documents, are due on October 14, 2014. Motions addressing the Cambodian documents are due on November 3, 2014.

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The Government has repeatedly stated that it was gathering documents concerning the victim's age from Cambodian authorities. To date, no such documents have been tendered to the defense. It is extremely unlikely that enough time remains before the November 3, 2014, deadline for defense counsel to receive the documents, to evaluate them, and to file any required motions concerning their admissibility.

The admissibility of the Cambodian documents is likely to be a major issue in this case, both pretrial and at trial. It may be anticipated that the Government will argue that evidentiary defects in the documents will pertain only to their weight and not to admissibility, but this Court is charged with the responsibility of being a gatekeeper. Standards that are appropriate to the Kingdom of Cambodia may not comport with the evidentiary standards appropriate to a United States District Court.

Due process requires that Jayavarman be accorded a reasonable period of time to challenge evidence that is likely to be pivotal in this case. The remaining time before November 3, 2014, is insufficient to provide him with a reasonable opportunity to investigate whatever documents the Government secures and to mount a pretrial challenge to those documents. Accordingly, Jayavarman requests this Court to enter an order granting him three weeks after receipt of the Cambodian documents to file any motions challenging their admissibility.

Should this Court find that the new documents are inadmissible, it may be expected that the Government will attempt to adduce expert testimony concerning the purported victim's age based on her appearance. If the Government elects to go that route, Jayavarman will challenge any such voodoo science through a motion in limine.

Moreover, with respect to general motions practice, Jayavarman was unable to meet the October 14, 2014, deadline because he has yet to be provided with the new Cambodian documents. An evaluation of the new documents pertaining to age is U.S. v. Jayavarman, Motion to Continue.

absolutely essential to completing a general motions practice. In Count I, Jayavarman is charged with enticing a minor child to produce child porn. In Count II, Jayavarman is charged with attempting to travel in order to have illicit sex. Thus, the age of the victim is extremely important. Jayavarman has tendered to the Government and this Court documents which identify the supposed victim and establish that she was not a person under 18 years of age¹. This suggests the possibility of mounting a legal impossibility defense with respect to both counts. However, doing so would require an evaluation of the new documents concerning the purported victim's age. No such evaluation can be done until Jayavarman has been provided with the new documents.

Moreover, another problem is that the Government has alleged in Count I that the offense took place *sometime* between 2010 and 2013. Thus, it is necessary to ascertain what the new documents indicate concerning the current age of the purported victims in order to determine how old they were during each of the years between 2010 and 2013. Making that determination is necessary in order to evaluate the feasibility of asserting a legal impossibility defense.

Accordingly, Jayavarman requests this Court to extend the general motions deadline until three weeks after he has been provided with the new Cambodian documents (in a form readable and reasonably usable to the defense).

The suggested motion deadlines extensions likely will delay trial. Jayavarman requests a trial continuance and submits that, pursuant to 18 USC 3161(h)(7)(B), the

¹

The Government did not know the identity of the purported victim. That information was given to the Government and this Court by Jayavarman.

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interest of justice, which will be advanced by any continuance of the trial date, outweigh his and the public's interest in a speedy trial.

Due process demands that Jayavarman be accorded a reasonable opportunity to engage in motions practice after being provided with documents that could very well be pivotal to his case.

Conclusion

Trial has been continued several times to accord the Government time to secure the Cambodian documents. This Court should extend motions deadlines and continue the trial in order to accord Jayavarman a reasonable opportunity to evaluate those documents and to tailor his motions practice accordingly.

Respectfully submitted this 14th day of October, 2014, in Anchorage, Alaska.

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Certificate Of Service

I hereby certify on this 14th day of October, 2014, a true and accurate copy of this motion, supporting declaration, and proposed order were served on Assistant U.S. Attorney Audrey Renschen and Attorney Vikram Chaobal *via* electronic filing.

/s Rex Lamont Butler

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